

## REMARKS / ARGUMENT

### A. CLAIMS 1-5 ARE PATENTLY DISTINGUISHABLE FROM KADAMBI

Applicant submits that claims 1 – 27 of the present application are patently distinguishable with respect to US Patent No. 6,335,935 to Kadambi et al. (“Kadambi”). Applicant therefore respectfully traverses the rejection made pursuant to Section 102(e).

The first and second steps of the method of Claim 1 recite: “receiving a plurality of packets including respective first priorities on a first port; generating respective second priorities *as a function of* the respective first priorities;” Applicant respectfully submits that Kadambi fails to satisfy the second step of Claim 1. As indicated at col. 21, lines 34-42, Kadambi explicitly states that the invention makes all incoming packets tagged packets by inserting an 802.1Q tag in all untagged packets for purposes of eliminating the need for rules pertaining to untagged packets. Since the tags are inserted only in the untagged packets, there is no *second priority* generated for these packets. As for the incoming packets that already have an 802.1Q priority, there is no need or suggest to generate a *second priority*. Thus, Kadambi fails to disclose the generation of a *second priority* for either 802.1Q tagged packets or untagged packets. (*this applicability of this argument must be confirmed by inventor, since the 802.1Q priority tag maybe the second tag of a packet with an TOS field*).

The third step of the method of amended Claim 1 recites: “prioritizing selected ones of the plurality of packets as a function of respective ones of the *second priorities*;” Applicant respectfully submits that Kadambi fails to disclose or suggest this third step of Claim 1. Each of the three sections of Kadambi cited by Examiner indicate that the filter database processes packets using the *original packet data*. In contrast, the present invention determines the prioritization of selected packets based upon the *second priorities* in the “generating step.” The *second priority* is generated as function of the *first priority* but is not the same as the first priority. Thus, the prioritization in the present

application does not use the original packet data as taught by Kadambi. The present invention is there patently distinguishable from Kadambi.

With respect to Claims 2 and 3, Examiner notes that Kadambi performs prioritization based upon the source or destination addresses. However, Applicant respectfully points out that Kadambi performs *prioritization* using the source/destination addresses for packets that *do not include* an 802.1Q priority field therein. See col. 20, lines 28-29.

In contrast, the present invention in Claim 2 uses the source address to *select a prioritization scheme* to apply to a given packet, not to prioritize. Depending on the source address, the invention in Claim 2 culls out select packets from the plurality of packets with which to perform prioritization using the second priority. The unselected packets are prioritized in accordance with an alternative prioritization scheme independent of the second priorities. Since the selection process depends on the source address of a packet, the packet may or may not already include an 802.1Q priority field. The method of processing is therefore different that Kadambi and leads to a different result.

In Claim 3, the unselected packets, i.e. packets not selected for prioritization using the second prioritizes, undergo prioritization based upon the destination address of the respective packets.

With respect to Claim 4, Kadambi generates a priority tag with the port based VLAN table (232) only if the incoming packet does not already possess an 802.1Q tag priority. See col. 18, lines 34-36. Kadambi, therefore uses either the 802.1Q priority tag or the priority from the port based VLAN table, but not both. See col. 18, lines 34-36. The preferred embodiment of the present invention, in contrast, the first priorities originate from the incoming packets while the second priorities are generated as a *function of the first priorities*. As such, a packet in the preferred embodiment has associated with it both a first priority and second priority.

In Claim 5, the second priority is an 802.1Q tag priority generated as a function of the 802.1Q tag priority present in the inbound packet. Kadambi generates an 802.1Q tag priority picket from the VLAN table if the incoming packet does not include 802.1Q tag. Kadambi is, therefore, directed to a system for generating only the first 802.1Q tag priority and not a second 802.1Q tag priority. The present invention is there patently distinguishable from Kadambi.

B. CLAIMS 6-17 ARE PATENTLY DISTINGUISHABLE FROM KADAMBI

The first step of the method of Claim 6 recites: "receiving a packet with an included priority;" The *included priority* in some embodiments of the invention is the 802.1Q tag priority as illustrated by the TAG0 – TAG3 bytes in the packet header in Figure 3.

Applicant respectfully submits that the *included priority* limitation is not satisfied by the "field in the packet" as suggested by Examiner. The "field in the packet" at col. 20, lines 9-14, refers to the first 64 bytes of a packet which may include the source and destination addresses, for example. While the source and destination addresses may be used to compute a priority, they themselves are clearly not priorities. In the alternative, if the incoming packet includes an 802.1Q tag priority, the system in Kadambi does not proceed to determining a *first priority* as recited in the second step of Claim 6. Kadambi therefore does not anticipate or suggest the present invention and the rejection is respectfully traversed.

Claim 7 – 17 depend from Claim 6 and are therefore patently distinguishable for the reasons stated immediately above.

C. CLAIMS 18-27 ARE PATENTLY DISTINGUISHABLE FROM KADAMBI

Claim 18 as amended reads: "a first network interface for receiving a packet from a first network, ..., for marking the packet with a priority select indicator ..." As discussed in detail above, Kadambi may insert an 802.1Q tag in a packet that does not already have

one, but does not generate a *priority select indicator* at the first network interface to signal to the second network interface the prioritization scheme to be implemented. Therefore, Claim 18 and the claims that depend therefrom are patently distinguishable from the prior art.

D. NEW CLAIMS 28-36 ARE PATENTLY DISTINGUISHABLE FROM  
KADAMBI

Claim 28 recites a first network interface for performing several functions including “determining a first priority based on the included priority for each of the plurality of packets” and “marking one or more selected packets from the plurality of packets.” In reviewing Examiner’s comments regarding Claim 18, it appears that Examiner equates the step of “*marking*” in the present application with the step of “filtering” in Kadambi. These function, however, are not equivalent since the *marking* in the present invention is used to convey the prioritization scheme determined in the first network interface to the second interface where prioritization occurs. It is not evident to Applicant, however, with what means Kadambi communicates the results of the filtering step executed in one EPIC to a second EPIC. Kadambi therefore does not to Applicant to anticipate Claim 18.

Claim 28 – 36 depend from Claim 26 and are therefore patently distinguishable for the reasons stated immediately above.

E. CONCLUSION

For all the forgoing reasons, Applicant submits that the present invention is patently distinguishable from the prior art and respectfully requests that a timely Notice of Allowance be issued in this case.

Should there be any fees for this action, your office is authorized to draw from the firm deposit account number 02-3979. Should you have any questions, or identify any

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problem, I would appreciate a telephone call so that this matter may be resolved promptly.

Respectfully submitted,

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